

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at KNOXVILLE

ZACHARY TYLER MARTIN,

Plaintiff,

v.

POLARIS, INC., *et al.*,

Defendants.

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Case No. 3:22-cv-322

Judge Curtis L. Collier

MEMORANDUM & ORDER

Before the Court is Defendant's motion for leave to file two documents: a motion to exclude Plaintiff's July 1, 2024, expert report supplement from Mr. Tyler Kress (Doc. 64-1), and a motion referred to as a supplement to Defendant's fourth motion in limine (Doc. 64-2). (Doc. 64.) Plaintiff has responded in opposition. (Doc. 107.) Plaintiff opposes both Defendants' motion for leave to file and the motions Defendants move to file. (Doc. 107.) Trial is scheduled to begin August 12, 2024.

Defendants assert that Plaintiff made disclosures on July 1, 2024—the deadline for motions in limine—and Defendants acted promptly to file the pending motion. (Doc. 64 at 1.) Specifically, on July 1, 2024, Plaintiff served Defendants with a supplement to an earlier expert report from Mr. Kress “that contained new opinions and information not expressed in [his] earlier reports.” (*Id.* at 2.) Plaintiff also served a witness list that disclosed Ms. Marietta Robinson, as a potential fact witness at trial. (*Id.*) Plaintiff first listed Ms. Robinson in his Rule 26 disclosures on June 30, 2024, which Defendants assert was too late to address in their July 1, 2024, motions in limine. (*Id.*)

Plaintiff opposes Defendants' motion and argues he disclosed items close to the July 1, 2024, motions in limine deadline because of "Defendants' repeated delays in scheduling depositions and their failure to provide numerous requested files." (Doc. 107 at 1.) Specifically, Defendants requested additional time for expert disclosures, so the parties entered into an informal agreement without involving the Court. (*Id.* at 2.) According to the agreement, Defendants were to disclose their experts by May 31, 2024, and allow Plaintiff to depose the experts prior to June 14, 2024. (*Id.*) Defendants requested an extension to the deadline disclose expert reports until June 7, 2024, and Plaintiff agreed but "insisted" Defendants identify experts by May 31, 2024, to allow for deposition scheduling prior to the motion in limine deadline. (*Id.*) Plaintiff immediately requested deposition dates after receiving notice of the names of Defendant's experts, and Defendants agreed to provide deposition dates. (*Id.*) On June 7, 2024, Defendants served expert disclosures on Plaintiff, but some were incomplete. (*Id.*) After Defendant failed to provide Plaintiff with deposition dates, Plaintiff filed four notices of deposition on June 18, 2024. (*Id.*) Defendants could not arrange for depositions before July 1, 2024, and as of July 23, 2024, Plaintiff has not deposed all of Defendants' experts. (*Id.*) Additionally, Plaintiff asserts Defendants "failed to provide vital information detailed in their expert reports until after July 1, 2024, including the Faro scan data, which is a method to determine the dimensions of the vehicles." (*Id.* at 2–3.)

The parties have not involved the Court in decisions to extend deadlines. (*See e.g. id.* at 2; Doc. 33 at 2–3.) Defendants received Mr. Kress's expert report supplement and notice of Ms. Robinson as a potential fact witness immediately before the motions in limine deadline. (Doc. 64 at 2.) Defendants filed the current motion eight days later. (Doc. 64.) While Plaintiff alleges Defendants are largely at fault for his late disclosures, Defendants acted promptly upon receiving

Plaintiff's disclosures. (Docs. 64; 107 at 2.) For good cause shown, the Court **GRANTS** Defendants' motion for leave to file (Doc. 64). The Clerk of Court is **DIRECTED** to docket documents 64-1 and 64-2 as pending motions. Plaintiff is **DIRECTED** to supplement his response to Defendants' supplement to their fourth motion in limine (Doc. 64-2) on or before **July 26, 2024**.

SO ORDERED.

ENTER.

/s/
CURTIS L. COLLIER
UNITED STATES DISTRICT JUDGE